



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Amended	04/10/03	Bill No:	SB 548
Subject:	Kopp Act	Author:	Burton
Board Position:		Related Bills:	SB 445 (2001)

BILL SUMMARY

This bill would:

1. increase the Kopp Act reportable contributions to a Member of the Board of Equalization from \$250 to \$1,000, and
2. require that a contribution to any Member of the Board aggregating \$1,000 or more from a committee that has received a contribution aggregating \$1,000 or more within the preceding 12 months from a corporation that is a party, participant, or agent to any Board hearing be included among contributions subject to Kopp Act provisions.

Summary of Amendments

The introduced version of the bill did not impact the Board of Equalization. As amended on April 8, the Kopp Act provisions were added to the bill. On April 10, the bill was amended to make Senate President pro Tempore Burton the author.

ANALYSIS

Current Law

As part of a comprehensive governmental ethics reform measure, Senate Bill 1738 (Chapter 84, Statutes of 1990) enacted the Quentin L. Kopp Conflict of Interest Act of 1990 (Section 15626 of the Government Code). The Act requires that, prior to rendering any decision in any adjudicatory proceeding before the Board, each Member who knows or has reason to know that he or she received a contribution of \$250 or more within the preceding 12 months from a party or participant, or his or her agent, shall disclose that fact on the record of the proceeding, as specified. Further, each Member is prohibited from participating in the decision or using his or her position to influence the decision if a contribution was made, as specified. The Act also provides that a party or a participant is required to disclose for the record if there has been a contribution to a Member of \$250 or more in the preceding 12 months. The Act further requires that Board staff must inquire and report to the Board whether any such contributions have been made. Any person who knowingly or willfully violates any of those provisions is guilty of a misdemeanor. Currently, contributions by Political Action Committees (PACs) are not subject to the contribution limits and disclosure requirements in the Act.

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Proposed Law

This bill would amend Government Code Section 15626 to provide that contributions to any Board Member by a committee that has received a contribution aggregating \$1,000 or more within the preceding 12 months *from a corporation* that is a party, participant, or agent would also be subject to the Kopp Act disclosure and disqualification provisions. For purposes of this provision, "committee" would have the same meaning as prescribed in Government Code Section 82013 and related regulations.

Background

Senator Burton introduced a similar measure in 2001 (SB 445). That bill would have required that a contribution to any Board Member aggregating \$250 or more from a committee that has received a contribution aggregating \$250 or more within the preceding 12 months from a corporation that is a party, participant, or agent to any Board hearing be included among contributions subject to Kopp Act provisions. Those provisions were amended out of the bill before it was sent to the Governor.

COMMENTS

1. **Sponsor and Purpose.** This bill is sponsored by the author in order to subject contributions from PACs to the Kopp Act provisions. According to the author's office, this bill is intended to address concerns raised in an October 29, 2000 Orange County Register newspaper article that suggested that some companies' taxes were reduced as a result of Board decisions that may have been influenced by permissible contributions to Members. These companies were corporate members of the Taxpayers Political Action Committee (Tax PAC), and PAC contributions are currently not subject to the conflict of interest provisions. This bill would close a loophole in the Kopp Act by making contributions from certain PACs, as specified, subject to the Kopp Act disclosure provisions.
2. **Key Amendments.** As introduced on **February 20, 2003** by Senator Perata, this bill dealt with the Political Reform Act of 1974. The **April 8, 2003** amendments gutted the introduced version of the bill and amended the Kopp Act to increase the amount of disclosable contributions and require the reporting of contributions by corporations to PACs. The **April 10, 2003** amendments changed the author from Senator Perata to Senator Burton.
3. **This bill increases the amount of contributions subject to disclosure.** This bill increases from \$250 to \$1,000 the amount of disclosable contributions made by all parties and participants, and the increase is not exclusive to the new provisions that would require reporting of contributions made by corporations to PACs.
4. **This bill would create administrative difficulties for Board staff and Board Members.** Board Proceedings staff currently track, identify and timely disclose all contributions of \$250 or more made to Board Members, and determine if any contributors are parties, participants, or agents to any Board Members. By contrast, under current law, information about PACs is not required to be reported to the Board. While it is not difficult to determine if a party, participant, or agent has

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contributed to a Board Member, it could be extremely difficult to determine if that party has contributed to a PAC that subsequently has contributed to a Board Member. This would require extensive review of PAC contribution reports. However, the timeline for PACs to submit contribution disclosure statements often results in a lag between the Board hearing date and the submission of disclosure statements. For example, statements are generally filed at the end of each month following the end of each quarter. This year, the Board met once in January, once in February, twice in March, and once in April. Therefore, a contribution could have been made on January 1, yet the disclosure statement not be available until April 30.

In addition, even when the disclosure statement is available, Board staff would still be required to review the often extensive reports to determine if any PAC contributions involved a corporation that is a party to a hearing before the Board. To address this situation, in addition to the already existing disclosure requirements, the author could consider amending the bill to require PACs and corporations to report whether any contributions have been made to Board Members, including a list of contributing corporations, as soon as the contribution is made. However, if the bill is amended as suggested, it would still require additional Board staffing and extremely burdensome record-keeping and tracking responsibilities.

5. **Related legislation.** Previous legislative attempts to revise the Kopp Act provisions have been unsuccessful, although those measures were broader than this bill's provisions. Senate Bill 139 (Kopp, 1993), Senate Bill 1806 (Kopp, 1992), Senate Bill 80 (Kopp, 1991), and Senate Bill 438 (Kopp, 1989) were basically identical bills that would have required Board staff to inquire and report contributions made by affiliated corporations and state assesses. Those bills were vetoed by Governors Wilson (SB 139, SB 1806, and SB 80) and Deukmejian (SB 438).

COST ESTIMATE

This bill would result in significant costs related to the requirements that Board staff inquire about, and report on, contributions made by PACs. While a cost estimate has not been made for this bill, the costs for SB 445 (2001, Burton) were estimated to be \$84,000 in 2001/02 and \$130,000 beginning in 2002/03 and annually thereafter.

REVENUE ESTIMATE

This bill would not impact the state's revenues.

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